

Message Text

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PAGE 01 GUATEM 05722 160038Z

73

ACTION L-03

INFO OCT-01 ARA-06 ISO-00 SCA-01 JUSE-00 /011 W

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P 160025Z OCT 75

FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC PRIORITY 8574

LIMITED OFFICIAL USE GUATEMALA 5722

EO 11652: NA

TAGS: SNAR, GT

SUBJ: EXTRADITION REQUEST: MANUEL SALAS SAENZ

REF: STATE 244789

1. GIVEN URGENCY OF MATTER, EMBASSY IS FORWARDING NOTE TO FOREIGN MINISTRY REQUESTING PROVISIONAL ARREST FOR EXTRADITION OF MANUEL SALAS SAENZ (REFTEL) TO FACE CHARGE OF "CONSPIRACY TO IMPORT COCAINE INTO THE US." HOWEVER, UPON REVIEWING EXTRADITION TREATIES BETWEEN GUATEMALA AND THE US, WE OFFER THE FOL OBSERVATIONS.

2. ART 1 OF THE 1940 SUPPLEMENT TO THE ORIGINAL 1903 EXTRADITION TREATY ADDED THE FOLLOWING CLAUSE AS GROUNDS FOR EXTRADITION:

"23. VIOLATION OF THE LAWS PROHIBITING OR REGULATING THE TRAFFIC IN NARCOTICS, WHEN THE PENALTY TO WHICH VIOLATORS ARE LIABLE IS ONE YEAR'S IMPRISONMENT OR MORE".

3. THE 1940 SUPPLEMENTARY TREATY ALSO PROVIDED THAT EXTRADITION WOULD BE GRANTED FOR "ATTEMPT" OR FOR "PARTICIPATION IN SUCH CRIMES OR OFFENSES AS AN ACCESSORY BEFORE OR AFTER THE FACT..." CONSPIRACY, HOWEVER, IS GENERALLY CONSIDERED TO BE A SEPARATE OFFENSE FROM "ATTEMPT" OR "ACCESSORY."

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4. OUR READING OF THE 1940TREATY LEADS US TO CON-
CLUDE THAT IT DOES NOT MAKE THE CRIME OF CONSPIRACY
EXTRADITABLE AS SUCH. IN ORDER FOR MANUEL SALAS
SAENZ TO BE EXTRADITED, THEREFORE, THE CLAUSE
"PROHIBITING OR REGULATING THE TRAFFIC IN NARCOTICS"
WILL HAVE TO BE READ BROADLY TO INCLUDE THE CRIME
OF CONSPIRACY, OR THE INDICTMENT WILL HAVE TO BE
MODIFIED TO BRING IT INTO LINE WITH OFFENSE WHICH
THE TREATIES DEFINE AS EXTRADITABLE.
MELOY

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Message Attributes

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Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
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